

Serial No. 09/625,889
Page 5

REMARKS

This amendment is intended as a full and complete response to the non-final Office Action mailed January 16, 2003. In the Office Action, the Examiner notes that claims 1-15 are pending, of which claims 1-15 stand rejected. By this amendment, claims 5, 9, and 12 have been amended and claims 1-4, 6-8, 10-11, and 13-15 continue unamended.

In view of both the amendments presented above and the following discussion, the applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §102 and §103. Thus, the applicant believes that all of these claims are now in allowable form.

REJECTIONS

35 U.S.C. §102

Claims 1, 5, 9, and 12

The Examiner has rejected claims 1, 5, 9 and 12 under 35 U.S.C. §102(e) as being anticipated by Reed et al. (U.S. Patent No. 5,896,440, Issued April 20, 1999, hereinafter "Reed"). The applicant respectfully traverses the rejection.

The applicant's invention, as defined in claim 1 (and similarly in claims 5, 9, and 12) recites:

"A method for managing adjunct access for a circuit in a network management system, the method comprising the step of: providing a respective manageable link representing each non-managed portion of the circuit, responsive to a determination that a non-managed portion of the circuit exists." (emphasis added)

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984)(citing Connell v. Sears,

Serial No. 09/625,889
Page 6

Roebuck & Co., 722 F.2d 1542, 220 U.S.P.Q. 193 (Fed. Cir. 1983)) (emphasis added). The Reed reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

In particular, the Reed reference discloses a unified communication system using an agreed upon transmission protocol between different carriers. The protocol is used to allow the automatic gathering of administrative data (such as trouble reports) from a diverse location to within a sending network using the proprietary admission data language and structure of that network. In particular, administrative data is electronically and automatically communicated through a single gateway. The gateway on the ascending network side gathers administrative data from a plurality of points within sending network and packages that gather data into an agreed upon, object orientated transmission protocol. This repackaged transmission protocol is then transported over existing switching network to a single gateway within the receiving network. The receiving gateway then extracts messages for delivery to various points within the receiving network (see Reed, Abstract and column 2, lines 51-65). Thus, while data useful in managing network elements is provided, only the mere accumulation of such data is disclosed. That is, manageable link representing each non-managed portion of the circuit.

By contrast, the applicant's invention provides a manageable link representing each non-managed portion of the circuit, which is responsive to a determination that a non-managed portion of the circuit exists. As illustrated in the applicant's specification, by connecting a first portion A, a second portion B, and a final portion N via links, a continuous managed circuit is provided allowing the circuit 100 to be identified in the IEC's network management system with one circuit identifier as opposed to a circuit identifier for each portion of the circuit. In addition, the automated design process works sufficiently because circuit 100 is managed from first portion A to final portion N. Also, alarm monitoring for circuit 100 is complete because each portion of circuit 100 is managed because links

Serial No. 09/625,889

Page 7

provide a continuous circuit (see applicant's specification, page 6, lines 14-21 and Figure 1).

The Reed reference fails to teach each and every element of the claimed invention since Reed fails to disclose "a management link representing each non-managed portion of the circuit." That is, the Reed reference merely discloses that a long distance carrier and a local carrier may be interconnected through a network connection that uses protocols common to both the long distance carrier and the local carrier networks. Further, communications between the long distance carrier and the local carrier are limited to failure reporting therebetween, as opposed to the applicant's invention, which unifies portions of the long distance carrier and local carrier/leased lines into a single circuit between a source node and a destination node. Accordingly, a single circuit identifier may be used between the source and destination nodes, and the circuit is managed by the Interexchange carriers (long distance carriers). Nowhere in the Reed reference is there any teaching or suggestion that the long distance carrier manages the entire circuit which includes the manageable link representing each non-managed portion of the circuit. Therefore, the Reed reference fails to teach each and every element of the claimed invention, as arranged in the claim.

As such, the applicant submits that independent claim 1 is not anticipated under 35 U.S.C. §102 and is patentable thereunder. Likewise, independent claims 5, 9, and 12 recite similar features as recited in independent claim 1. As such, and at least for the same reasons as discussed above, the applicant submits that these independent claims are also not anticipated and fully satisfy the requirements under 35 U.S.C. §102 and are patentable thereunder. Therefore, the applicant respectfully requests that the rejections be withdrawn.

35 U.S.C. §103

The Examiner rejected claims 2-4, 6-8, 10-11 and 13-15 under 35 U.S.C. §103(a) as being unpatentable over Reed in view of Christie (U.S. Patent No. 6,201,812, issued March 13, 2001, hereinafter "Christie") and further in view of

Serial No. 09/625,889

Page 8

Owens et al. (U.S. Patent No. 6,415,150, issued July 2, 2002, hereinafter "Owens"). The rejection is respectfully traversed.

Claims 2-4 depend from independent claim 1 and recite additional features thereof. For example, claim 2, when combined with independent claim 1, recites:

"A method for managing adjunct access for a circuit in a network management system, the method comprising the step of: providing a respective manageable link representing each non-managed portion of the circuit, responsive to a determination that a non-managed portion of the circuit exists wherein each respective manageable link is coupled to at least one of a Digital Cross Connect (DCS), a Light wave Guided Cross Connects (LGX), and a Distribution Drop Point (DDP)." (emphasis added)

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 U.S.P.Q. 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added).

As discussed above, the Reed reference merely discloses administrative data (such as failure reports) is electronically and automatically communicated through a single gateway. The gateway on the ascending network side gathers administrative data from a plurality of points within the sending network and packages the gathered data into an agreed upon, object orientated transmission protocol. This repackaged transmission protocol is then transported over the existing switching network to a single gateway within the receiving network. The receiving gateway then extracts messages for delivery to various points within the receiving network (see Reed, column 2, lines 51-65). Nowhere in the Reed reference is there any teaching or suggestion of "providing a respective manageable link representing each non-managed portion of the circuit, responsive to a determination that a non-managed portion of the circuit exists."

Serial No. 09/625,889

Page 9

Furthermore, the Christie and Owens references fail to bridge the substantial gap as between the Reed reference and the applicant's invention. In particular, the Christie reference merely discloses that digital cross connect (DCS) equipment may be utilized to connect the wiring from one network to another network (see Christie, column 2, lines 41-49). Moreover, the Owens reference merely discloses such DCS equipment may include LGX, DDP, Light span, among others (see Owens, column 6, lines 6-27, and column 8, lines 5-24). However, the Christie and Owens references fail to teach or suggest "providing a respective manageable link representing each non-managed portion of the circuit, responsive to a determination that a non-managed portion of the circuit exists."

Even if the three references could somehow be operably combined, the combination of Reed, Christie and Owens merely disclose a long distance carrier coupled to a local carrier via digital cross connect circuitry or equipment, where the information from the long distance carrier is repackaged and transported over the DCS equipment where messages are extracted for delivery to various points within the receiving network (i.e., local carrier). Thus, the three references fail to teach or suggest, either singularly or in combination, the applicant's invention as a whole. That is, the combination of references fails to solve the problems in a manner as recited by claim 2 of the applicant's invention. Specifically, the applicant's invention allows a circuit having adjunct access and leased facility portions to be on one circuit such that the entire circuit may be managed by a Interexchange carrier (IEC) such as a long distance service provider. The combination of Reed, Christie, and Owens simply do not provide a manageable link representing each non-managed portion of the circuit. Therefore, the combined references fail to teach the applicant's invention as a whole.

As such, the applicant submits that claim 2 is not obvious and fully satisfies the requirements under 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 3 and 4 depend from Independent claim 1 and recite similar features thereof. As such, and at least for the same reasons as discussed

Serial No. 09/625,889
Page 10

above, the applicant submits that these dependent claims are also not obvious and fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder.

Moreover, claims 6-8, 10-11, and 13-15 respectfully depend from independent claims 5, 9, and 12, which recite similar limitations as recited in independent claim 1. As such, and at least for the same reasons as discussed above, the applicant submits that these dependent claims are also not obvious and fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder. Therefore, the applicant respectfully requests that the rejections be withdrawn.

CONCLUSION

Thus, the applicant submits that the pending claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg or Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,



Eamon J. Wall, Attorney
Reg. No. 39,414
(732) 530-9404

Moser, Patterson & Sheridan, LLP
Attorneys at Law
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702